

Appraisal Operational Manual

This Appraisal Manual provides the guidance to prepare and review appraisal reports under Iowa Eminent Domain Law.

THE UNIFORM ACT and USPAP

In Iowa, Certified and Associate Real Property Appraisers (General and Residential) who provide eminent domain appraisal services, are required to comply with the Uniform Standards of Professional Appraisal Practice (USPAP), the Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs (Uniform Act), the Iowa Constitution, statutory and case law and state administrative law and policy.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) 42 U.S.C. 4601-4655, implemented at 49 CFR 24.302.

The Federal Uniform Act applies to all programs or projects that are undertaken by Federal Agencies or with Federal financial assistance, and, which require the acquisition of real property or which cause the displacement of any person.

The State of Iowa has codified the Federal Uniform Act so that in Iowa the Federal Uniform Act procedural standards for eminent domain appraisals are also the State of Iowa's procedural standards. It references the Federal Uniform Act of 1970, as amended, which is also known as Public Law 91-646 as implemented in 49 CFR 24.102, 24.103(3) and 24.105.

Chapter 543D of the Iowa Code, Real Estate Appraisals and Appraisers, applies to general commercial market USPAP appraisals and to Iowa eminent domain appraisals, all of which must comply with the appraisal standards contained in the Iowa Constitution, statutes, judicial(case) law and this manual.

- ❖ Only those eminent domain appraisals which comply with Iowa eminent domain law and this manual may be approved by a Certified General Real Property Appraiser.
- ❖ Certified General Real Property Appraisers are responsible to identify and comply with required Iowa eminent domain appraisal standards in the performance of an eminent domain appraisal.

The purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, is: “To provide for uniform and equitable treatment of persons displaced from their homes, businesses and firms by Federal and federally-assisted programs and to establish uniform and equitable land acquisition policies for Federal and federally-assisted programs.”

Shortly after the Uniform Act became law, the Uniform Appraisal Standards for Federal Land Acquisitions (yellow book) was developed by the Department of Justice to establish appraisal standards for Federal eminent domain acquisitions only.

Uniform Act regulations are written to reflect the needs for wide range appraisal standards for Federally funded eminent domain appraisals to which USPAP appraisal standards cannot be applied.

For all Iowa eminent domain Appraisals the **mandatory** appraisal requirements are the:

- ❖ Iowa Constitution, Article I, Section 18
- ❖ Code of Iowa, Chapters 6A, 6B and 316 and other eminent domain statutes
- ❖ Iowa Supreme Court interpretations of Iowa Constitution and eminent domain statutes
- ❖ Regulations 761, IAC 111
- ❖ Federal Uniform Act and Regulations, 49CFR, part 24

Guidance can be found at:

- ❖ The Iowa Department of Transportation Appraisal Policy and Procedure Manual
- ❖ The Appraisal Guide (FHWA)
- ❖ Uniform Standards for Federal Land Acquisition
- ❖ USPAP

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) Public Law 101-73, 103 Stat 183, 511 August 9, 1989.

Title XI requires the establishment of State Programs for the licensing and certification of appraisers performing appraisals for federally related transactions under the jurisdiction of Federal financial institution regulatory agencies.

“Federally related transactions”—The term means any real estate-related financial transaction which:

- ❖ Federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and
- ❖ Requires the services of an appraiser.

The FIRREA is not by its terms directly applicable to the acquisition of real property for Federal and federally assisted projects. Regulations implementing the Uniform Act contain appraisal criteria, in 49 CFR 24.103, that are applicable to such acquisitions.

The Uniform Standards of Professional Appraisal Practice (USPAP)

The Appraisal Standards Board of the Appraisal Foundation adopted USPAP on January 30, 1989. USPAP is the generally accepted and recognized standard for appraisal practice in the United States.

Over the years USPAP has evolved as a document in content, form and organizational structure. It is a work in progress and, as such, may be altered, amended, supplemented, etc., in accordance with established procedures.

USPAP requires that Iowa certified appraisers comply with the Federal Uniform Act and Iowa eminent domain statutory law as interpreted by the Iowa Supreme Court and appraisal policies of the state as implemented by the Iowa Administrative Code (IAC) and published appraisal standards contained in the Iowa Department of Transportation Appraisal Policy and Procedure Manual (this publication).

USPAP appraisal standards that are contrary to Iowa eminent domain law and policy are void and of no force and effect in an eminent domain appraisal assignment by operation of Iowa law as stated in the USPAP “Jurisdictional Exception” and/or “Supplemental Standards” Rules and comments.

➤ Jurisdictional Exception Rule

The 2003 Edition of USPAP defines Jurisdictional Exception as:

“An assignment condition that voids the force of a part or parts of USPAP, when compliance with part or parts of USPAP is contrary to law or public policy applicable to the assignment.”

Standards Rule 1-4(f) requires appraisers to analyze the effect, if any, of anticipated public improvements, located on or off site, to the extent that market actions reflect such anticipated improvements as of the effective appraisal date.

Article 1, section 18 of the Iowa Constitution **prohibits** consideration of increases or decreases in a property’s value caused by the project. It specifically states “shall not take into consideration any advantages that may result to said owner on account of the improvement for which it is taken”.

Within the appraisal report, the appraiser is required to identify this Jurisdictional Exception and cite the legal authority justifying the action.

➤ Supplemental Standards

The 2003 Edition of USPAP defines Supplemental Standards as:

“Requirements issued by government agencies, government sponsored enterprises, or other entities that establish public policy which add to the purpose, intent and content of the requirements in USPAP, that have a material effect on the development and reporting of assignment results.”

Iowa eminent domain laws (implemented in Iowa Administrative Code) and this Appraisal Policy and Procedure Manual are supplemental standards that Iowa certified appraisers must comply with, in addition to the requirements set forth by USPAP.

Examples include, but are not limited to:

- All appraisal reports are written reports with no oral reports allowed.
- All Iowa appraisal forms used in the development of the appraisal. All applicable forms are located in the Appendix of this manual.
- The appraiser must offer the owner, or the owner’s representative, an opportunity to accompany the appraiser on the inspection of the subject property.
- A five-year sales history of the subject property.
- Photographs of the property, including the area to be acquired on partial acquisitions.
- Partial acquisitions.
- Sketches of each improvement to be acquired.
- Statutory requirement to pay cost of future maintenance for extended driveways at the rate of \$20 per lineal foot.
- Agricultural fence will be paid administratively and not considered in the appraisal.

Appraisal Reporting

USPAP Standard 2 addresses reporting the results of a real property appraisal and that the appraiser must communicate each analysis, opinion and conclusion in a manner that is not misleading.

Standards Rule 2-2 states that the written appraisal report be a Self-Contained Appraisal Report, Summary Appraisal Report or Restricted Use Appraisal Report. The essential difference among the three options is in the content and level of information provided.

The level of detail in the presentation of information in each type of report is an important factor. The terms “describe” “summarize” and “state” are often used to differentiate the levels of detail required in the Self-Contained Appraisal, the Summary Appraisal and the Restricted Use Appraisals, respectively.

The Uniform Act addresses criteria for appraisals in 49 CFR-24.103(a). It states that the format and level of documentation for an appraisal depend on the complexity of the appraisal problem. A “Detailed Appraisal” shall reflect nationally recognized appraisal standards and must contain sufficient documentation to support the appraiser’s opinion of value.

For those uncomplicated acquisitions that require an appraisal, the DOT has adopted a “Value Finding” format. This reporting format is used for simple partial acquisitions when the damages to the remainder are non-existent or are relatively minor, are easily measured or explained, or are measurable by cost-to-cure. This type of report does not express before and after values, but rather indicates the compensation due the property owner.

The DOT accepts a “Fannie Mae” type of residential format, which is used to value acquisitions of residential properties.

The three types of appraisals require the value conclusions in all three appraisal formats to be supported by the development and reporting of relevant market information, rather than distinguishing between complete and limited appraisals by the use or non-use of departures.

For purposes of Iowa eminent domain appraisal reporting, USPAP’s “Summary Appraisal Report” with the Supplemental Standards cited earlier equates to Iowa DOT’s “Detailed Appraisal”, “Value Finding” and “Fannie Mae” reporting formats.

Appraisal Review

USPAP Standard 3 addresses the appraisal review function. It states that an appraiser acting as a reviewer must develop and report a credible opinion as to the quality of another appraiser’s work and must clearly disclose the scope of work performed in the assignment.

It further states that the reviewer’s opinion about quality must encompass the completeness, adequacy, relevance, appropriateness and reasonableness of the work under review. The appraisal review function may or may not include the development of an opinion of value about the real property of the work under review.

The Uniform Act addresses criteria for the review of appraisals in 49 CFR-24.104, and recognizes that appraisal review is a specialized area of appraisal practice. It states that a qualified review appraiser shall examine the presentation and analysis of market information in all appraisals to assure they meet appraisal requirements of the Uniform Act and support the appraiser's opinion of value.

In **addition** to complying with USPAP Standard 3, the eminent domain review appraiser's responsibilities include:

- Rejecting, accepting or approving (staff review appraiser) or recommending approval of (fee review appraiser) an estimate of just compensation, which cannot be less than the approved appraisal.
- Assuring the appraisal report was completed in accordance with State law.
- Assuring the appraisal report was completed in accordance with the Iowa DOT Appraisal Operational Manual (this manual).
- Requesting and obtaining from the appraiser any needed corrections or revisions to a deficient appraisal report.
- Assuring each appraisal report is independently acceptable and there is consistency throughout the project area.

If the review appraiser is unable to approve an appraisal as an adequate basis for the establishment of the offer of just compensation, he/she may develop an independent estimate of value if there is no other practical way to resolve an unacceptable appraisal or appraisals.

When the review appraiser establishes an independent value conclusion in lieu of approving the value conclusion of a submitted appraisal report, he/she becomes the appraiser, but no subsequent independent appraisal review is required.